IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.565 OF 2007

1.Shri Sanjeev Mallappa Bhandi
2.Shri Nitin Narayan Jambhulkar
3.Shri Satyanarayan Rangnath Palake ...Applicants.

V/s.

The State of Maharashtra ...Respondent.

Shri N.P.Deshpande, adv. for the Applicants.
Shri Y.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 7th March, 2007.

P.C.:

1. Heard Mr.Deshpande, the learned counsel for the applicants and Mr.Shinde, the learned APP for the State.

2. The applicants seek anticipatory bail in crime no.33 of 2007 registered with Deccan Police Station, Pune for the offence punishable under Section 381 read with Section 34 of the I.P.C.

3. The present three applicants and one Praful Mahadik, who are diploma holder engineers, were in the service of Policom Private Limited and Palican System and Solution owned by the complainant Ghansham Waswani and his wife. The said companies used to supply materials and service required for telephone exchange

and for this purpose, in all 26 or 27 workers were employed. The present applicants and Praful Mahadik resigned from service on 24-5-2006. F.I.R. in this case was lodged by Ghansham on 18-1-2007, i.e. almost 8 months after resignation of the present applicants. In that F.I.R. he alleged that on 24-5-2006 itself he had come to know that these four persons had sold away some goods of the companies and misappropriated the amount. He also came to know that these four persons have established their own business in the name of Dolphin Company. When he took stock of the material in his own company and made enquiries, he came to know that the applicants had supplied fax machines to 4 or 5 companies in the name of Dolphin Company but the same machinery and spare parts were actually taken away from the stores of the first informant Ghansham Waswani. As per his report, 11 fax machines, battery handsets, crown type and connector worth Rs.1,11,651/- were stolen away. He also alleged that theft of these articles were committed during the span of about 3 years from July, 2003 to 24-5-2006 i.e. the date on which these four persons had resigned. On the basis of that F.I.R., the offence under Section 381 came to be registered against 4 persons. Praful is arrested and remaining three applicants have filed this application for anticipatory bail. The applicants claim to be innocent and according

to them, they have started their own business in competition with the business of the first informant and because of this competition, false report is lodged and they are falsely implicated in this case.

4. The application is strongly opposed on behalf of the prosecution on the ground that even before the applicants had resigned the service, they had started their own business and there were substantial transactions in the name of Dolphin Company for which the bank accounts have been collected by the police. According to the prosecution, the machinery stolen away has to be recovered. It appears from the F.I.R. itself that the machinery was stolen away during the span of about 3 years prior to 24-5-2006 and the said machinery was allegedly disposed off and supplied to different companies for valuable consideration. The surprising fact in the matter is that the first informant kept quiet for about 8 months after the applicants had resigned and after he had came to know that they had misappropriated certain machinery and material of his company. From resignation letters, it appears that the applicants had stated that they had used resources of his companies for their newly established Dolphin company and their company is now competitor of the company of Ghansham Waswani. Though at this stage it is

not desirable to come to any conclusion about the facts or to make any comments about truth or otherwise about the allegations made in the F.I.R., possibility of the F.I.R. being lodged because of the competition between the two companies can not be ruled out. If anticipatory bail is not granted to the present applicants, career of these three young persons, who are diploma holder engineers may be completely spoiled and finished. The learned counsel for the applicants makes a statement that the applicants are willing deposit Rs.1,11,651/- being the value of machinery allegedly misappropriated by them as per the F.I.R. within the reasonable time which may be given by this Court.

5. Taking into consideration all the circumstances noted above subject to the applicants depositing the amount of Rs.1,11,651/- in the Court of competent J.M.F.C.,Pune within two weeks from this date. In the event of arrest in crime no. 33 of 2007, the applicants Sanjeev Mallappa Bhandi, Nitin Narayan Jambhulkar and Satyanarayan Rangnath Palake shall be released on their executing P.R.Bond of Rs.10,000/- each with surety in like amount with condition that they shall fully co-operate with the police in the investigation and shall also make themselves available to the police for interrogation as and when required. In case after

investigation the charge-sheet or a police report is filed, the amount shall be paid to the party found entitled as per merits of the case.

6. Application stands disposed off.

7. Parties to act on an authenticated copy of this order.

(J.H.Bhatia,J.)